AUTOMOTIVE PROVISIONS REPORT

The *Automotive Provisions Report* is designed to provide an inventory of text and website links (hyperlinks), where available, of various bilateral and regional trade agreements which relate to the automotive industry. It thereby provides a policy complement to our *Compilation of World Motor Vehicle Import Requirements* which focuses on market data and worldwide automotive import restrictions for the major automotive markets of the world.

The U.S. Department of Commerce (USDOC), Office of Automotive Affairs collects, compiles and disseminates the information available in these documents. They are updated periodically and every attempt is made to ensure their accuracy. However, due to the numerous sources of information, and changes in countries requirements, the Office of Automotive Affairs cannot guarantee the accuracy of all the material contained in these documents.

These documents are also available on the Office of Automotive Affairs homepage: http://www.ita.doc.gov/auto.

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Overview:
Automotive manufacturers base a large part of their strategic trade and investment decisions on the benefits of free trade agreements (FTAs) in what they consider to be key regions of the world. They can provide a framework under which the industry can better integrate its global operations. Because of the flexibility these agreements offer the companies in terms of sourcing and rationalizing, the impact on the companies is positive.

Ultimately, when import barriers fall, manufacturers become free to supply several countries from a single plant, providing economies of scale not previously attainable. Therein lies the utility and fundamental benefits in playing an active and key role now as FTAs are developed.

How many Trade agreements?
The United States currently has FTAs with: Canada and Mexico (within the North America Free Trade Agreement [NAFTA]); Israel; and, Jordan. During 2003, FTAs with Chile and Singapore were signed, and needed to be approved by Congress before they can take effect. (On July 23, 2003, both agreements were approved in the House.) Since the passage of Trade Promotion Authority, the United States has initiated multiple FTA negotiations to complement the on-going regional/hemispheric Free Trade Area of the Americas (FTAA) negotiations and reinforce its global strategy for trade and investment liberalization under the World Trade Organization's (WTO) Doha Round.

Furthermore, the United States began FTA negotiations in January 2003 with five nations in Central America (CAFTA, which includes Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), and completed these negotiations in December 2003. In addition, the United States is engaged in FTA negotiations with Morocco; five nations in the Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa and Swaziland); and, Australia. On August 4, 2003, the United States announced that the Dominican Republic would be included in the on-going CAFTA negotiations (increasing the number of CAFTA countries to six), as well as initiating FTA talks with Bahrain and Thailand. The United States is identifying other candidates in the Western Hemisphere for FTAs, to include Panama, and the Andean Pact. Our global trading partners are also forging similar alliances through similar FTAs, with Mexico taking a notable lead on bilateral FTAs with such partners as the European Union (EU), and plans for Brazil, Japan and Korea. Clearly, the trend is here to stay.

Which FTAs affect the automotive industry?
Some of these FTAs have specific automotive provisions, most notably the NAFTA. Other agreements do not; typically agreements with those markets which do not have indigenous automotive industries. Nonetheless, given the global nature of the industry, even agreements to which the United States is not a party have an affect on U.S. companies with diverse global operations, and can provide a competitive advantage to their competitors. Therefore, for trade policy purposes as well as strategic planning for

the industry, it is imperative to keep pace with the terms of these agreements and assess the implications for our manufacturers.

OVERVIEW OF AUTOMOTIVE TRADE AGREEMENTS

Common Elements:

The common elements found in global automotive trade agreements include provisions on tariffs (reduction/staging on phase-outs); trade balance requirements and quotas; local content requirements; rules of origin; and, provisions on used vehicles.

The notable extremes in these agreements are:
1) the high MERCOSUR vehicle external tariff (35 percent)
2) the low U.S. passenger car external tariff (2.5 percent)
3) the trade balance requirements and quotas of the bilateral arrangements within the MERCOSUR group (specifically between Brazil and Argentina)
4) Argentina's 30 percent local content requirement within the 60 percent MERCOSUR rule of origin
5) the high automotive rule of origin in the NAFTA (62.5 percent)
6) the low automotive rule of origin in the Andean Pact (40 percent)
7) the long transition period (25 years) for Mexico to preserve the used car ban under the NAFTA (2019)
8) the indefinite used car bans in the MERCOSUR and U.S.-Chile FTA

Proposed solutions for integrating:

Given that there are many common elements, it would seem that a solution to integrate these agreements would be relatively easy. Nevertheless, they are not. With the various mechanisms in place (which are typically designed to keep out third parties via systems of preferences and exclusions), coupled with lengthy transition periods, eventual integration will be difficult.

Nonetheless, one such exercise is underway in the FTAA negotiations– attempting to integrate several schemes: NAFTA, CAFTA, Andean, and MERCOSUR. It is still unclear whether the systems will be subsumed into one agreement at the end of the transition period, or if the individual agreements will continue to co-exist.

Moreover, since all agreements must be WTO-legal, and there is a current round of negotiations underway via the Doha Agenda, it remains all the more unclear if the systems will be subsumed into this broader global system. Since the idea within the WTO is that trade agreements are designed to be mutually-beneficial, not mutually exclusive, it is hoped that global trade liberalization will ultimately be achieved and not further undermined by the proliferation of trade agreements.

PART I. CONCLUDED TRADE AGREEMENTS

AFRICA/MIDDLE EAST

United States-Israel FTA

See: http://www.ustr.gov
http://www.tcc.mac.doc.gov/cgi-bin/doit.cgi?204:64:567069504:84

– The United States' first FTA.
– Implemented on August 19, 1985.
– No known automotive provisions.

United States-Jordan FTA

See: http://www.ustr.gov
http://www.tcc.mac.doc.gov/cgi-bin/doit.cgi?204:64:567069504:301

– The United States' fourth FTA (after Israel, Canada, and NAFTA).
– Signed on October 24, 2000.
– Implemented on September 28, 2001.
– No known automotive provisions.

ASIA

United States-Singapore FTA

See: http://www.ustr.gov/new/fta/singapore.htm

– Signed May 6, 2003.
– Approved by the House on July 23, 2003.
– No known automotive provisions.

The major automotive-related accomplishment appears to be securing a commitment from Singapore that they would abide by the WTO's Customs Valuation Agreement.

ASEAN Free Trade Agreement (AFTA)

See: http://www.us-asean.org/afta.asp

When the AFTA agreement was originally signed in 1992, ASEAN had six members (Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand). Vietnam joined in 1995, Laos and Myanmar in 1997, and Cambodia in 1999. All four countries were required to sign on to the AFTA agreement in order to join ASEAN, but were given longer time frames in which to meet AFTA's tariff reduction obligations. The AFTA's common effective preferential tariff (CEPT) is the mechanism by which tariffs on goods traded within the ASEAN region, which meet a **40% ASEAN content requirement**, were reduced to 0-5% by the year 2002/2003 (2006 for Vietnam, 2008 for Laos and Myanmar, and 2010 for Cambodia).

Automotive Arrangements:

ASEAN Industrial Cooperation Scheme (AICO)

See: http://www.us-asean.org/afta.asp#ASEAN%20Industrial%20Cooperation%20Scheme%20(AICO

The AICO is intended to be an important feature of ASEAN economic cooperation. It is designed to encourage technology-based investments in ASEAN, and is open to any ASEAN-based company meeting the following requirements: 1) incorporated in and operating in an ASEAN country; 2) a minimum of 30 percent ASEAN equity; 3) the company engages in some form of resource sharing (such as sharing of technology, market sharing, or consolidated purchases of raw materials).

A minimum of two companies in two ASEAN countries must participate. Output of approved AICO projects will enjoy 0-5% tariffs immediately, as will raw materials and intermediate products. Such products will also enjoy local content accreditation and non-tariff incentives. The rules of origin will be the same as under the CEPT (40% ASEAN content). The non-tariff incentives will be determined by each country individually, and have not yet been specified. The above criteria for participation, particularly by the 30% ASEAN equity requirement, may be waived under certain circumstances. This will be settled by consultation.

The AICO was approved by the ASEAN Economic Ministers' Meeting in Singapore in late April 1996, was ratified by the then seven ASEAN members, and went into effect on November 1, 1996. Laos and Myanmar both acceded to the AICO agreement upon joining ASEAN in July of 1997.

A number of American companies have indicated their interest in the scheme, particularly those in the auto and autoparts sectors. As of July 2002, there were 98 approved AICO ventures, and a cumulative total of approximately 150 applications. These projects had an estimated annual transaction value of US$1.09 billion, according to the ASEAN Secretariat.

EUROPE

EUROPEAN UNION

See: http://europa.eu.int/index_en.htm

European integration is based on four founding treaties:

– The Treaty establishing the European Coal and Steel Community (ECSC), which was signed on 18 April 1951 in Paris, entered into force on 23 July 1952 and expired on 23 July 2002;

– The Treaty establishing the European Economic Community (EEC);

– The Treaty establishing the European Atomic Energy Community (Euratom), which was signed (along with the EEC Treaty) in Rome on 25 March 1957, and entered into force on 1 January 1958. These Treaties are often referred to as the "Treaties of Rome". When the term "Treaty of Rome" is used, only the EEC Treaty is meant;

– The Treaty on European Union, which was signed in Maastricht on 7 February 1992, entered into force on 1 November 1993. 'The Maastricht Treaty changed the name of the European Economic Community to simply "the European Community". It also introduced new forms of co-operation between the Member State governments - for example on defense, and in the area of "justice and home affairs". By adding this inter-governmental co-operation to the existing "Community" system, the Maastricht Treaty created a new structure with three "pillars" which is political as well economic. This is the European Union (EU).

Moreover, the founding treaties have been amended on several occasions, in particular when new Member States acceded in 1973 (Denmark, Ireland, United Kingdom), 1981 (Greece), 1986 (Spain, Portugal) and 1995 (Austria, Finland, Sweden). There have also been more far-reaching reforms bringing major institutional changes and introducing new areas of responsibility for the European institutions:

– The Merger Treaty, signed in Brussels on 8 April 1965 and in force since 1 July 1967, provided for a Single Commission and a Single Council of the then three European Communities;

– The Single European Act (SEA), signed in Luxembourg and the Hague, and entered into force on 1 July 1987, provided for the adaptations required for the achievement of the Internal Market;

– The Treaty of Amsterdam, signed on 2 October 1997, entered into force on 1 May 1999: it amended and renumbered the EU and EC Treaties. Consolidated versions of the EU and EC Treaties are attached to it. The Treaty of Amsterdam changed the articles of the Treaty on European Union, identified by letters A to S, into numerical form;

– The Treaty of Nice, signed on 26 February 2001, entered into force on 1 February 2003. The Treaty of Nice, the former Treaty of the EU and the Treaty of the EC have been merged into one consolidated version.

Further changes will probably be made to the Treaties as a result of the Convention on the Future of Europe and of the Treaty on the Accession of 10 new Member States, which was signed on 16 April 2003 to enter into force on 1 May 2004.

Automotive Tariff Rates

Imports from non-EU and non-EFTA countries are subject to common external tariffs (CET). A 10 percent CET is applied to passenger cars imports. Electric-motored cars are subject to a 12.5 percent CET. The CET for diesel- and gas-engined trucks is either 11 or 22 percent, depending on the vehicle engine capacity. Diesel or semi-diesel trucks with an engine capacity of 2.5 liters and below are subject to an 11 percent CET, while diesel or semi-diesel trucks with an engine capacity exceeding 2.5 liters have a 22 percent CET. Gas-engined trucks not exceeding 2.8 liter engine capacity are subject to an 11 percent CET, while those exceeding 2.8 liters have a 22 percent tariff. Dump trucks are subject to either a 6 or 17 percent duty, depending on engine capacity. Dump trucks with an engine capacity of 2.5 liters and below are subject to a 6 percent CET, while dump trucks with an engine capacity exceeding 2.5 liters have a 17 percent CET. All trucks made specifically for the purpose of transporting highly radioactive materials are subject to a 5.3 percent CET.

Western Hemisphere

Central America Free Trade Agreement (CAFTA)

See: http://www.ustr.gov/new/fta/cafta.htm

– Initiated January 8, 2003.
– Negotiations completed December 2003.
– Publicly-available text expected during January 2004.

Provisions forthcoming.

European Union-Mexico FTA

See: http://www.europa.eu.int/comm/trade/bilateral/mexico/fta.htm

– Implemented July 1, 2000.

Summary of Automotive Provisions

1) Tariff Elimination

Mexico exported cars to the EU with a 6.9 percent duty in 2000, and this decreased to 4.6 percent in 2001, 2.3 percent in 2002, and will go to zero during 2003. The EU quota cars will receive “NAFTA parity,” mirroring the same rates which both the United States and Canada, as NAFTA partners, receive(d): a 3.3 percent duty in 2000, decreasing to 2.2 percent in 2001, 1.1 percent in 2002, and down to zero in 2003.

2) Rules of Origin

The automotive ROO in the Mexico-EU agreement is based on ex-factory price (adjusted value methodology). Automobiles, trucks and buses were subject to a 45 percent rule of origin from 2000-2001. In 2002, the requirement for autos increased to 50 percent and will remain at 50 through 2004. The rule of origin for trucks and buses continued at 45 percent during 2002, and increased to 50 in 2003 through 2006. Autos will increase to 60 percent in 2005 and remain at 60 through 2007, while trucks and buses increase to 60 percent in 2007.

Under the NAFTA, the automotive ROO is based on the net-cost methodology. From 1994-1997, at least 50 percent of a light vehicle's net cost had to be of value originating in North America. In 1998, this value increased to 56 percent, and in 2002 reached 62.5 percent. All other vehicles had to meet 50 percent from 1994 through 1997, 55 percent from 1998 through 2001, and 60 percent thereafter. Under the NAFTA, there is an additional, special category for vehicle manufacturers setting up a new plant, or significantly retooling an existing plant, to produce a class or size of vehicle not previously produced at that plant. This provision allows for 50 percent regional content to meet rule of origin requirements, for a period of either two or five years (two years for production of a new type of vehicle at an existing plant, five years for a new type of vehicle in a new plant), beginning on the date the first prototype vehicle is produced in the (qualifying) plant.

3) Import Quotas

During the first stage (2000-2003), established companies in Mexico are allotted 10 percent of the domestic market while non-established companies are allotted 4 percent (on a first-come, first-served basis). During the second stage (2004-2006), this will increase to 15 percent of the domestic market, for established and non-established companies, each with a specific quota. Trucks and buses will be subject to a quota of 2,500 units a year in both stages. Mexico will manage the quotas with EU concurrence. In contrast, the NAFTA created two transitional quotas specifically for heavy vehicles, and these have now expired. As of January 1, 1999, the NAFTA removed all restrictions on new heavy vehicles that comply with all Mexican standards and regulations.

4) Used Vehicles

Mexico accepted "NAFTA parity": starting in 2009, any person/company can import used cars into Mexico from the EU. (Under the NAFTA, Mexico agreed that in 2009 it will begin a ten-year phase out of the embargo on used vehicles (light vehicles, buses, and heavy trucks) that meet the NAFTA rule of origin. The ban will be lifted completely in 2019.) Under this FTA, the EU will be privy to the same terms, provided they meet the Mexico-EU rule of origin.

North American Free Trade Agreement (NAFTA)

See: http://www.nafta-sec-alena.org/english/index.htm

– The United States' third FTA (after Israel and Canada).

– Implemented on January 1, 1994.

Summary of Automotive Provisions:

On January 1, 1994, the North American Free Trade Agreement supplanted Mexico's Automotive Decrees on light and heavy vehicles. The NAFTA provides for the elimination of Mexican tariffs, local content requirements, trade balancing requirements, and market share restrictions generally within a ten-year period on vehicles from the U.S. and Canada which meet the NAFTA rule of origin.

1) Tariffs

– Mexican tariffs on cars and light trucks originating in the U.S. or Canada which meet the NAFTA rule of origin were reduced from 20 to 10 percent on January 1, 1994.

– The passenger car tariff was subsequently reduced by 1.2 percent in 1995 and has been and will continue to be reduced by 1.1 percent each year until the tariff is reduced to zero on January 1, 2003.

– The Mexican tariff on light trucks was reduced by 2.5 percent per year beginning in 1995 until it was eliminated on January 1, 1998.

– Mexican tariffs on heavy trucks (all vehicles weighing over 8,864 kilograms), cab chassis, truck tractors, buses, and specialty vehicles were cut from 20 to 18 percent on January 1, 1994, and are being phased out in increments of 2 percent each year until they are eliminated on January 1, 2003.

– Mexico will maintain a 20 percent tariff on U.S. and Canadian vehicles not meeting the NAFTA rule of origin and on vehicles from all other countries.

2) Taxes :

– On imported products, there is a 0.8 percent Customs Service fee and a Value Added Tax (VAT) of 10 percent. The VAT is assessed on the sum of (1) the value of the product at importation, (2) the tariff, and (3) the Customs processing fee.

3) Trade Balance Requirements and Quotas:

– The NAFTA reduces the value a vehicle assembler is required to export per value imported into Mexico. Effective January 1, 1994, the NAFTA reduced the amount of exports required for every $1.00 worth of cars and light trucks imported into Mexico by a vehicle assembler from $2.00 to $0.80. This requirement is reduced each year over a period of ten years (i.e. $0.772 in 1995, $0.661 in 1999, $0.550 in 2003) until it will be eliminated completely on January 1, 2004. Also eliminated on this date will be the requirement that only vehicle assemblers in Mexico may import vehicles.

– In addition, the NAFTA eliminated immediately Mexican market share restrictions. (In 1993, imports of finished cars and light trucks were limited to 20 percent of each producer's sales in Mexico, up from 15 percent in 1992.) Nonetheless, Mexican trade balancing and local content provisions will continue to limit the number of potential vehicle imports during the transition period.

– For heavy vehicles the NAFTA creates two transitional quotas. An assembler in Mexico may import, for each type of heavy vehicle it produces in Mexico, 50 percent of the number of such vehicles produced in Mexico. For example, if a manufacturer makes both trucks and buses, then it may import 50 percent of its production of each of these types of vehicles. In order to be eligible for this quota, an assembler must maintain 40 percent local content. Non-assemblers may import a total of no less than 15 percent of the total production of each type of vehicle in Mexico for 1994 and 1995; no less than 20 percent for 1996; and no less than 30 percent for 1997 and 1998. This quota will be allocated through a non-discriminatory auction. In 1999, the NAFTA removes all restrictions on new heavy vehicles that comply with all Mexican standards and regulations.

4) Local Content Requirements:

– The NAFTA provides for the reduction and elimination on January 1, 2004, of Mexican local content requirements on light vehicles.

– Assemblers in Mexico that meet or exceed the pre-NAFTA local content requirement of 36 percent receive an immediate reduction to 34 percent. The 34 percent level will remain until January 1, 1999, when it will be reduced one percentage point per year, ending at 29 percent in 2003 before its elimination.

– An assembler that was below 36 percent prior to the NAFTA may maintain its 1992 percentage until it equals the reduction schedule. At that point it will be reduced according to the above schedule.

– Existing vehicle assemblers must choose one of the two options described above at the beginning of the transition period and operate under that approach throughout the transition period; the percentage applicable to a new assembler will be the scheduled percentage at the point it begins operations.

5) Rules of Origin:

– The NAFTA rule of origin is a regional content measurement which establishes the minimum criteria that products must meet in order to qualify for preferential tariff treatment between the U.S., Canada, and Mexico.

– From 1994 to 1997, at least 50 percent of a light vehicle's net cost had to be of value originating in North America. From 1998 through 2001 this value increases to 56 percent, and in 2002 this value reaches 62.5 percent.

– All other vehicles must meet 50 percent from 1994 through 1997, 55 percent from 1998 through 2001, and 60 percent thereafter.

6) Used Vehicles:

– Mexico has maintained a ban on the importation of used vehicles except into certain border zones (northern border zones of Mexico, free zones of the state of Baja California, partial zones of Sonora and the state of Baja California del Sur, and the border city of Cananea in the state of Sonora).

– Only used passenger vehicles from four to fifteen model years older than the current model year are permitted to be imported into these zones. (The Mexican automotive model year is legally defined as November 1 through October 31.)

– Tariff reductions on used vehicles will match those in effect for new vehicles. In 2009, Mexico will begin a ten-year phase out of the embargo on used vehicles (light vehicles, buses, and heavy trucks) that meet the NAFTA rule of origin. The ban will be lifted completely in 2019.

7) Import Licenses:

– In order to monitor NAFTA provisions, import licenses may be required until 1999 for heavy vehicles and until 2004 for light vehicles.

– Import licenses may not be used to restrict imports of new vehicles or parts by companies that comply with all provisions of the NAFTA.

– Import licenses will continue to be used to restrict entry of used vehicles until 2009. During the used vehicle restriction phase-out, licenses will be used to monitor the age of imported used vehicles but cannot be used to limit the number of vehicle imports in the allowed age category.

– Import permits will be used to monitor and allow the entry of certain used vehicles which are being used to fulfill a business contract in Mexico.

– Import licenses may be used to restrict entry of vehicles classified under HTS 8703.10.99 (other special vehicles) until 2004.

– Import permits may be required for the following vehicles if they are used but may not be required if the vehicles are new: 8702.90.01 (trolley buses), 8705.10.01 (mobile cranes), 8705.20.99 (other mobile drilling derricks), 8705.90.01 (street sweepers), or 8705.90.99 (other special purpose motor vehicles not elsewhere classified).

– Mexico also maintains a ban on the importation of much used equipment, including many special purpose motor vehicles such as concrete mixers. Access into Mexico of these vehicles for fulfillment of a contract will be restricted until 2004. In 2004, the ban on used equipment will be eliminated, and import permits will monitor the use of such equipment in Mexico to ensure the equipment is not being sold but rather is being used in fulfillment of a contract.

– Once the limitation on the importation and sale of used vehicles is eliminated, import permits covering usage of such vehicles will no longer be necessary.

– Exceptions to the used equipment ban include: 8705.20.01 (mobile drilling derricks), 8705.20.99 (other mobile drilling derricks), or 8705.90.01 (street sweepers).

U.S.-Chile FTA

See: http://www.ustr.gov/new/fta/Chile/final/index.htm

– Signed on June 6, 2003.

– Approved by House on July 23, 2003.

Summary of Automotive Provisions:

1) Tariff Elimination:

Tariff reduction from 6 percent to zero upon implementation for most automotive products.

2) Luxury Tax phase-out:

4-year phase-out of 85% luxury tax.

3) Rules of Origin:

See: http://www.ustr.gov/new/fta/Chile/final/04.roos.specific%20rules%20annex.PDF

(Chapter 87, pages 74-76).

Automotive products have access to both build-up and build-down methodologies (30 percent for the build-up method and 50 percent for the build-down method). Formula is based on adjusted transaction price (not net cost, as utilized in the NAFTA).

4) Used Vehicles:

Chile is allowed to maintain its ban on used vehicles.

AUTOMOTIVE ARRANGEMENTS

Andean Automotive Agreement

<u>Overview:</u>

The Andean Pact was created under the Cartagena Agreement in 1969, and modified in 1996 as the Andean Community Trade Bloc, which gave the organization legal authority to negotiate with other trade blocs and pass laws addressing regional problems. It currently consists of five members: Bolivia, Colombia, Ecuador, Peru and Venezuela. However, only the three members which assemble vehicles for the local market and export to one another participate in the Andean automotive agreement: Colombia, Ecuador and Venezuela.

In September 1993, Colombia, Venezuela, and Ecuador agreed to adopt a common automotive policy which became effective on January 1, 1994 (also known as the "Complementary Convention in the Automotive Sector" and/or "Andean Automotive Policy"). This policy established common external automotive tariffs of 35 percent for automobiles and completely-knocked-down (CKD) kits, 15 percent for trucks and buses (10% for Ecuador), and a concessional rate of 3 percent for CKD kits available to assemblers participating in the regional/local content scheme.

Under the 1994 agreement, a regional/local content scheme was established for a five-year period so that vehicles and parts could be traded amongst all three countries duty-free. For example, the 1995-96 minimum requirement was set at 30 percent for automotive parts and passenger vehicles with a capacity of up to 16 persons and merchandise transport vehicles of a total weight of 4.5 tons (Category 1), and at 15 percent for other types of vehicles (Category 2). To enjoy the privilege of importing CKD material with a 3 percent import duty, assemblers must incorporate local content as follows: Category 1: 30 percent in 1995, 31 percent in 1996, and 32 percent in 1997. Category 2: 15 percent in 1995, 16 percent in 1996, and 17 percent in 1997. By January 1998, these rates rose to 33 and 18 percent, respectively.

This Andean Automotive Program was under review by the concerned Governments for the 5-year period (1999-2004), and, despite WTO implications, it appears that the regional content rules will gradually be adjusted upwards. Based on current information we understand that the regional content requirement in 2000 was 24.8 percent, and will increase to 34.7 percent by 2009.

TEXT OF ANDEAN AUTOMOTIVE AGREEMENT

"Complementarity Agreement in the Automotive Sector"

The Governments of Colombia, Ecuador and Venezuela,

HAVING SEEN: Articles 62 and 63 of the Cartagena Agreement, Commission Decisions 298, 370 and 444, Resolutions 355 of the Board and 163 of the General Secretariat, and articles 1 and 43 of the Treaty Creating the Court of Justice of the Cartagena Agreement as amended by the Cochabamba Protocol;

WHEREAS:

The advances being made by Andean integration call for instruments to be devised for promoting actions to link up industrial production and specialization processes more closely, in order to contribute to the economic and social objectives set out in the Cartagena Agreement;

It has therefore become necessary to reinforce and boost the development of the subregion's automotive industry, take advantage of the enlarged subregional market, promote automotive exports, meet the needs of regional integration agreements, and make use of the opportunities those agreements offer;

The Participating Countries in the Agreement have decided to launch a comprehensive strategy designed to give shape to an automotive industry that is responsive to international demands;

APPROVE:

Article 1.- The signing of the following Industrial Complementarity Agreement in the Automotive Sector which is geared toward the adoption of a Community policy for building stronger links among subregional producers, making the most of the enlarged markets in the region, and contributing to the creation of equitable conditions for competition in the subregional market and to the growth of competitiveness and efficiency.

Article 2.- The benefits offered by this Agreement to the automotive industries are aimed at:

Bringing about a transfer of technology that will guarantee an increase in their productivity and competitiveness.

– Generating further investments in production.

– Advancing development programs for the subregion's suppliers, and

– Offering Andean consumers higher quality products at better prices.

Compliance with these objectives will be evaluated annually and the results will be used by the Governments to decide upon any necessary adjustments and corrections, including the suspension of the benefits provided for herein, if necessary.

Article 3.- Annex 1 sets out the types of vehicles covered by this Agreement.

Article 4.- The following categories are adopted for the vehicles stipulated in Annex 1:

Category 1: Passenger vehicles for transporting up to 16 persons, including the driver, and cargo vehicles with a maximum loaded weight of not over 4,537 tons (or 10,000 U.S. pounds), together with their cabined chassis.

Category 2ª: Passenger vehicles for transporting more than 16 persons, including the driver.

Category 2b: All other vehicles not included in categories 1 and 2ª.

Article 5.- The Participating Countries shall establish a Common External Tariff of 35% for Category 1 vehicles and for Categories 2ª and 2b vehicles, a Common External Tariff of 15% in the cases of Colombia and Venezuela, and 10% in that of Ecuador.

Article 6.- In order to guarantee minimum safety, environmental conservation, consumer defense, and industrial property conditions, the Participating Countries shall authorize the importation of new vehicles of the current or following model and year only. Furthermore, only new components, parts, and pieces that have not been rebuilt or overhauled shall be authorized for import.

Article 7.- For purposes of this Industrial Complementarity Agreement, the Participating Countries shall apply a duty-free customs regime to automotive manufacturers that request it after fulfilling the corresponding provisions. Under this regime, automotive goods are produced and/or assembled in a customs zone and then enter the subregion's customs territory by paying the pertinent customs tariff.

The competent official agency of each Participating Country shall register with the Andean Community General Secretariat those companies availing themselves of the regime established by this article.

Article 8.- An Automotive Committee made up of the Participant Countries in this Agreement is hereby created with the same composition as the Subregional Automotive Committee set up through Commission Decision 298. According to its regulations, set out in Annex 2, the main functions of this Committee are to contribute to the development of the automotive and related industries and to recommend to the governments or to Community bodies the actions it deems advisable for the fulfillment of this Agreement and of the objectives of this integration effort and the development of the enlarged joint production offering.

The Andean Community General Secretariat shall act as the Automotive Committee's technical secretariat.

The Committee shall have the following additional terms of reference:

– To assess the impact of this Agreement on the development of the sector.

– To carry out activities designed to promote trade within the subregion.

– To evaluate the application of the Common External Tariff to goods that are related to the automotive sector in order to propose its modification if circumstances so counsel.

– To evaluate the application of the Specific Requirements of Origin demanded of automotive products and to recommend their change if needed

– To promote the application of mechanisms for promoting the subregion's automotive exports.

– To create subcommittees to study specialized aspects having to do with the sector.

– To formulate specific recommendations and proposals for automotive policy harmonization among the Participating Countries with regard to the environment, technical and technological improvement, quality standardization and certification, and industrial modernization, among other things.

– To evaluate the performance of automotive imports from third countries and to request the Participating Countries to take remedial measures.

To recommend the establishment of an automotive export policy.

– To propose the amendments it deems necessary to the NANDINA.

– To recommend a common negotiation policy with third parties.

– To monitor compliance with the commitments emanating from this Agreement by including on its agenda cases of noncompliance determined by the General Secretariat, in order to make recommendations to national authorities or community bodies for resolving the problem and for interpreting the stipulations of the Agreement, if necessary.

All others assigned to it by the competent bodies.

The Committee shall also promote the establishment of agreements on co-production, subcontracting, joint foreign trade operations, labor training, and joint developments, as well as other types of agreements conducive to closer dovetailing of the production processes.

Article 9.- Any Andean Community Member Country that is not a participant in the Agreement may request its incorporation. To that end, the Participating Countries shall approve the conditions for that incorporation, which shall be reported to the Commission. These conditions for incorporation shall be published by General Secretariat Resolution in the Cartagena Agreement's Official Gazette.

Article 10.- This Agreement shall be reported to the Commission and shall have a duration of ten years, which may be renewed for like periods. Any party to the Agreement may withdraw from it by informing the other Participating Countries of its intention through the offices of the General Secretariat no less than one year before the effective date of its withdrawal.

Article 11.- Any such agreement as the Participating Countries may sign for the application and implementation of this Agreement shall be published by Resolution of the Andean Community General Secretariat.

Article 12.- This Agreement shall be published in the Official Gazette of the Cartagena Agreement pursuant to article 43 of the Treaty Creating the Court of Justice of the

Cartagena Agreement as amended by the Cochabamba Protocol, and shall enter into effect on January 1, 2000.

Temporary Provision.- The Government of Venezuela shall study the mechanisms for implementing the Agreement in the customs and tariff areas, in order to ensure that is consonant with the country's legal provisions and shall pay special attention to exploring the adoption of a suspensive or special customs regime. It accordingly reserves the right to propose to the other countries signing the Agreement, instrumental adjustments to the Agreement that would guarantee that consonance.

MERCOSUR Automotive Agreement

Summary of Known Provisions:

– Five-year program, effective January 1, 2001-December 31, 2005 for MERCOSUR member countries (Argentina, Brazil, Paraguay and Uruguay)

– Vehicle imports from outside the MERCOSUR region are assessed a **35 percent tariff** while parts tariffs range from **14-18 percent**.

– Regional content is set at 60 percent, but during the transition period through December 31, 2005, Argentina will require a local content level of 30 percent for autos and 25 percent for trucks.

– Uruguay gets to retain its **23 percent tariff** on non-MERCOSUR auto imports until 2006, when it will adopt the 35 percent common external tariff of the Brazil-Argentina deal. Kits and auto parts imports from third countries to Uruguay will be subject to a 2 percent duty (while they range from 14-18 percent for Brazil and Argentina). Uruguay's import duty on trucks from third countries will gradually increase from its current 6-8 percent to 20 percent in 2006, while Argentina and Brazil will continue to charge 35 percent on these imports.

– Uruguay vehicles for intra-regional trade will be required to meet a 50 percent regional content rule (measured by value), instead of the 60 percent required for Brazilian and Argentine autos. Uruguay's **export quotas** to Brazil and Argentina will be 20,000 vehicles to each market (its previous arrangement with Brazil had been only 13,000 vehicles while its Argentine deal was 20,000). Argentina and Brazil were left with a 6,000 and 4,000 vehicle quota to Uruguay per year, respectively. Exports in excess of these quotas will be subject to a 23 percent tariff, but this is scheduled to gradually decrease to 6.9 percent in 2006 (indicating that real "free" intra-regional trade will not be occurring for potentially another 10 years).

– Paraguay will impose a **20 percent tariff** (rather than 23 percent) on third country vehicle imports and Paraguay will not impose vehicle quotas on its MERCOSUR partners since it has no auto industry. Otherwise Paraguay is treated the same as Uruguay.

– Recent press reports indicate that Argentina and Brazil have agreed to implement free trade in the auto sector **ahead of the 2006 target date**. At this time, we have no further details. In 2000, auto sales represented a third of the $15 billion in goods traded between Argentina and Brazil. Argentina's car industry is suffering from a 3-year economic slump, and sales and production have plunged on low demand. The governments and manufacturers hope that accelerated liberalization will increase trade with Brazil and help make up for these losses. This is doubtful, given Argentina's current economic state.

II. NOT-CONCLUDED TRADE AGREEMENTS

AFRICA/MIDDLE EAST

United States-Southern African Customs Union

See: http://www.ustr.gov/new/fta/sacu.htm

- Initiated June 2, 2003.
- Ongoing.
- Five Members of SACU: (Botswana, Lesotho, Namibia, South Africa, and Swaziland)
- Building on African Growth and Opportunity Act (AGOA)
  See: http://www.ustr.gov/regions/africa/2003-07-07-SACUfactsheet.PDF

United States-Morocco FTA

See: http://www.ustr.gov/new/fta/morocco.htm

- Initiated on January 21, 2003.
- Ongoing.

ASIA

United States-Australia FTA

See: http://www.ustr.gov/new/fta/australia.htm

- Initiated in November 2002.
- Ongoing.

Western Hemisphere

Brazil-Mexico Auto Agreement and FTA Negotiations

– Prior to the Mexico-EU FTA announcements, Brazil was privy to an 8 percent preferential tariff on vehicles exported to Mexico. However, in light of the Mexico-EU deal, Mexico was going to subject Brazilian exports to the regular tariff it imposes toward third countries (20 percent). Thus Brazil wanted a new agreement.

– Reported details of Mexico-Brazil April 2000 auto agreement (as a first step toward an eventual FTA) included an 8 percent duty, with a reciprocal import quota of 40,000 vehicles for each country, which would increase to 50,000 units the second year. The deal also provided that if quotas were not met over 2 years, the remaining amount could be filled in a third year. The accord applies to trade in cars as well as trucks weighing up to 9 metric tons. Since implementation, Mexico has become one of Brazil's top auto export markets.

Free Trade Area of the Americas (FTAA)

– Initiated in December 1994.

– Negotiations expected to be concluded no later than January 2005.

– Entry into force will be sought as soon as possible thereafter (no later than December 2005).

See **Official FTAA website**: http://www.alca-ftaa.org

Includes information on the following:

– Draft FTAA Text

– Document on methods and modalities of negotiations

– Ministerial Declarations; Trade Negotiations Committee; Publications and Databases; Governmental Contact Points; Negotiating Groups; Special Committees; Business Facilitation Measures; Trade-related Technical Assistance

– Background material on each of the nine negotiating groups: 1) market access; 2) investment; 3) services; 4) government procurement; 5) dispute settlement; 6) agriculture; 7) intellectual property rights; 8) subsidies, antidumping and countervailing duties; and 9) competition policy

Dept. of Commerce FTAA sites:

1) http://www.mac.doc.gov/ftaa2005/index.htm

– Several links available

2) http://www.ita.doc.gov/td/auto/country.html

– FTAA: Key Automotive Markets and Issues

USTR FTAA site:

http://www.ustr.gov/regions/whemisphere/ftaa.shtml

Americas Business Forum site:

http://www.abfecuador2002.com

– The 7th Americas Business Forum (ABF) was held on October 30-November 1, 2002 in Quito, Ecuador.

– The Forum is the premier hemisphere-wide business event that offers the business community a unique opportunity to communicate directly with Trade Ministers.

– During these meetings, workshops address the 9 negotiating groups, as well as smaller economies, electronic commerce and civil society. Private-sector participants have an opportunity to discuss their interests in the FTAA and present recommendations directly to Trade Ministers.

FTAA Hemispheric Database site: (best accessed via Internet Explorer)

http://alca-ftaa.iadb.org/eng/NGMADBE.HTM

Importance of the FTAA for the Automotive Industry:

The FTAA could offer significant export and investment opportunities for the U.S. automotive industry. It may also provide a framework under which the industry can better integrate its hemispheric operations. However, because of the multiplicity of existing and emerging trade arrangements in this region, the extent of the FTAA's potential impact is difficult to assess. We have consulted with our manufacturers and they are equally as unclear on outcomes for U.S. exports and investment opportunities.

What is clear is that the United States could be seriously disadvantaged if it does not participate in these negotiations in a meaningful way. While our borders are effectively open to imports from these nations, we do not enjoy reciprocal access. The North America Free Trade Agreement (NAFTA) negotiations with Mexico clearly indicate the potential for U.S. firms. While imports from Mexico have risen significantly over the past several years, they would have done so even if the NAFTA agreement did not exist, as our market was already open to Mexico. The difference has been the tremendous surge in U.S. exports to Mexico because of our improved access to its market. Shipments of motor vehicles and parts have increased from $7.5 billion in the year before the agreement, 1993, to $16.4 billion in 2000, an increase of over 118%.

Moreover, other regional trade arrangements in the hemisphere, such as the MERCOSUR (Brazil, Argentina, Paraguay and Uruguay) and Andean Pact (Bolivia, Colombia, Ecuador, Peru and Venezuela), demonstrate the significance of automotive integration between partners -- both member states and manufacturers alike, and the danger of being on the outside looking in. Direct access to these markets should advantage U.S. exporters.

Ironically, the impact of the most significant trade barriers in the region is not entirely negative. While these barriers reduce direct U.S. exports, they also benefit U.S. manufacturers who invested in the region under previous trade regimes. For example, Brazilian tariff and non-tariff barriers protect a growing, relatively inefficient, yet profitable industry (much of which is U.S.-owned); and, trade barriers in Argentina, Venezuela, Colombia, and Chile essentially protect U.S. parts and vehicle manufacturers invested in those countries. (The United States also maintains a 25 percent duty on trucks (primarily for the transport of goods, with a value in excess of $1,000 (generally all vehicles under HTS #8704). It is not applied to passenger vehicles, including sport utility vehicles or mini-vans which are assessed a 2.5 percent tariff.)

Nevertheless, there are barriers to the free flow of products between countries throughout the hemisphere which will need to be addressed during FTAA negotiations such as import bans on used vehicles and parts (remanufactured goods). During early discussions of the FTAA, we received guidance and suggestions from our industry on how the negotiations should proceed. This guidance remains relevant today. For example, in response to the request for comment appearing in the Federal Register on July 6, 1998, the American Automobile Manufacturers Association (AAMA)* and its member companies (General Motors, Ford and Chrysler) offered written comments to the United States Trade Representative (USTR) on July 29, 1998. This submission raised four broad areas of concern:

1) market access;

2) safeguards and trade-related investment measures (TRIMs);

3) customs; and,

4) standards and other technical barriers to trade.

Industry remains concerned about these areas. Therefore, these areas, as well as specific talks on automotive rules of origin, are currently being addressed during the negotiations.

* After the DaimlerChrysler merger in late 1998, AAMA broke-up and resulted in two associations: one for trade, representing the "Big Three" called the "Automotive Trade Policy Council" (ATPC), and one for regulatory issues, representing nearly all U.S. manufacturers (i.e. Toyota and BMW are members, too, yet Honda chooses not to belong) called the "Alliance of Automotive Manufacturers" (AAM).